

FARMINGTON POLICE DEPARTMENT

POLICY AND PROCEDURE



Policy Number:
384-02

Effective Date:
10/23/2018

Subject:
Property and Evidence Inspections,
Audits & Destructutions

Approved by:

A handwritten signature in black ink, appearing to read "S.D. Hebbe".

Steven D. Hebbe, Chief of Police



PURPOSE:

The purpose of this policy is to outline procedures which maintain the integrity of the system for controlling, recording, processing, and disposing of property taken into custody by Department personnel.

POLICY:

It is the policy of the Farmington Police Department to maintain the highest degree of evidentiary integrity over agency controlled property and evidence through periodic and documented inspections, audits, inventories, and destruction.

PROCEDURE:

Definitions:

Inspection – A formal review of the physical security and condition of the components and equipment of the property and evidence storage areas, tracking systems, procedures, policies, and processes of the Property and Evidence Unit.

Audit – A sampling and accounting of the selected pieces of property held by the Property and Evidence Unit.

Inventory – A complete accounting of the items physically in Department storage areas and those that the computerized property and evidence system(s) indicates are under the control of the Department.

Inspections of Property or Evidence:

At least once each quarter, the Civilian Operations Supervisor, in order to ensure compliance with all property control procedures, will conduct an inspection of the Evidence Rooms, Bicycle Yard, and Impound Yard. This process is guided by a checklist maintained by the Civilian Operations Supervisor.

Inspections are documented in a memorandum and forwarded to the Professional Standards Lieutenant and the Accreditation Manager through a Workflow in PowerDMS. The Chief and/or Deputy Chief can access these inspections at any given time.

Inspections should determine compliance with the following procedures:

1. Department policies on property control procedures are being followed;
2. The area is clean and orderly;
3. Property and evidence is logged into LERMS and its status recorded as soon as the Evidence Technician obtains possession of it, or as quickly as possible thereafter;
4. Property and evidence is being protected from damage or deterioration;
5. Key assignments are updated, alarms and motion sensor cameras are working properly and visitor logs are maintained.
6. Property labeling contains the required information: case number and storage location.
7. Attempts to notify the owner or custodian of all property and evidence in a timely manner are being made.
8. The function of obtaining final dispositions on all property and evidence is conducted in a paperless, ongoing method of review by the officer when the case offense expires, a District Attorney's case disposition is received, or triggered via an inquiry by the property owner or case officer.
9. The ongoing process of identifying evidence with no further evidentiary value is being conducted and disposed of properly.

At least once each quarter, a Detective Division Supervisor will conduct an inspection of the Crime Lab, Forensic Computer Lab, and Impound Yard to ensure compliance with all property control procedures.

Audit Procedures of Property or Evidence:

The purpose of the audits is to ensure the continuity of custody and not to require the accounting of every single item of property or evidence. For the purposes of either announced or unannounced auditing; the quantity of high risk evidence selected for audit shall be a minimum random amount of either 100 high risk items or 5% of all high risk items stored shall be audited, whichever is greater. In addition, an audit of general evidence excluding high risk items shall include a minimum random amount of either 100 items or 3% of all items stored shall be audited, whichever is greater. If an error rate of higher than 4% is discovered during any evidence audit, then a complete audit of the high risk area shall be performed.

When a personnel change occurs with an evidence tech, who is rotated out for any purpose and replaced with a new evidence tech an immediate audit shall take place prior to the transition to include a minimum random amount of either 200 high risk items or 10% of all high risk items stored shall be audited, whichever is greater. It shall be the responsibility of the Civilian Operations Supervisor to give notice of the pending personnel change to the Professional Standards Lieutenant for auditing purposes.

Each audit must be a two-step process. For the purposes of this section, two-step auditing is accomplished by:

- *Step One* – Creating a random list of items from the electronic property and evidence system and using that list to verify that each item is physically where the system shows that it is stored.
- *Step Two* –Selecting items to verify that the system shows that the item is where the auditor found it. This will be a minimum five percent of high risk items and three percent general property items.

An annual audit of property and evidence and property management records will be conducted by the Professional Standards Lieutenant, or designee. If a designee conducts the annual audit of property and evidence a report in memorandum format will be forwarded to the Professional Standards Lieutenant.

Unannounced audits of the property and evidence storage areas (Evidence Storage, Crime Lab, and Impound Yard) are conducted by the Inspections Lieutenant, or designee, at least annually, at the direction of the Chief of Police.

The sampling of items will be significant enough to be an accurate depiction of the entire room. Extra attention will be focused on high risk items (Narcotics, Firearms, Currency and Jewelry).

Inventory of Property or Evidence:

An inventory will be conducted at any time as directed by the Chief or when an Annual Audit produces discrepancies exceeding a five percent error rate.

The Civilian Operations Supervisor is the primary custodian of property and evidence. An inventory of property and evidence occurs whenever the primary custodian is assigned to or transferred from the position and is conducted jointly by the newly designated primary custodian and a designee of the Chief of Police, not to include the departing custodian.

Whenever a new Evidence Technician is designated, an inventory of money is conducted jointly by the newly designated Evidence Technician, the outgoing Evidence Technician, and the Civilian Operations Supervisor.

Destruction of Property or Evidence:

As a matter of policy, the return of property and evidence to the owner, where appropriate and lawful to do so, is the preferred manner of disposition of all property or evidence controlled by the Farmington Police Department pursuant to NMSA 29-1-14 and/or forfeiture laws.

Property and evidence with resale value, where the owner is not known or has not responded to mail requests to retrieve their property, (except weapons and contraband) may be sold via the City of Farmington's online public auction following a legal notice publication.

All property and evidence subject to disposal, should be relinquished within six months of being received by this Department, or within six months of all court or other legal requirements being satisfied.

The Evidence Technician periodically inquires of the submitting officer as to the status of the associated case and the continued need for secured evidence and property.

Property or evidence classified as “general property” that is not being sold at auction can be destroyed or disposed of by the Civilian Operations Supervisor, Evidence Technicians, or other Department Personnel as assigned. Two persons wearing activated body worn cameras are required while engaged in any process of destruction.

The final disposition of general property and evidence which cannot be returned to an owner is subject to the following considerations:

1. The apparent value of the item or the lack thereof;
2. The submitting person or a Supervisor has confirmed and documented that the item is appropriate for final disposition;
3. The item is subject to a court order authorizing disposal or destruction; or,
4. The item’s owner has requested that the item be disposed of by the Department and documentation exists regarding the owner’s intent to have the item destroyed.

Property and Evidence, when appropriate and in accordance with the provisions of this policy, may be disposed of in the below described manners as deemed appropriate and when in accordance with the preceding considerations:

1. Public auction;
2. Shredding;
3. Retained for police or city use, only upon written authorization by a Captain or higher ranking officer;
4. Made inoperable and deposited in trash receptacles;
5. Poured into the sewage draining system (such as in the case of alcoholic beverages);
6. Destroyed by explosive means (drugs and ammunition), or by incineration (drugs) witnessed by a minimum of an Evidence Technician and a member of the Professional Standards Division;
7. Destroyed by cutting torch or mechanical saw (weapons), which is witnessed by a minimum of an Evidence Technician and a second Department employee.
8. Hazardous material is released to the Farmington Fire Department or other entity for proper disposal;
9. Materials that may be a bio-hazard are stored in approved containers, and subsequently removed by an approved contract vendor.
10. Landfill crush and burial, witnessed by an Evidence Technician and at least one additional Department member. The technician shall request a letter of disposal from waste management personnel.

Evidence Destruction – General Rule:

Officers **shall not** authorize evidence to be disposed of in any “inactive” cases without being properly reclassified as one of the following case statuses: “Cleared, Closed or Unfounded.” Any case still within the statute of limitations **shall not** be destroyed, absent justified reasoning. In addition, the destruction of any evidence relating to a felony investigation must be accompanied by a supplemental report stating the reason for said destruction. The supplemental report shall be reviewed and approved by a supervisor prior to the authorization for destruction within the LERMS system being completed.

Destruction of Sexual Assault Evidence:

As a general rule as of September 1st, 2017, the Farmington Police Department does not authorize the destruction of sexual assault evidence or kits unless one of the following has taken place: the statute of limitation has expired, the District Attorney’s Office has authorized said destruction in writing, the case has gone unreported for a period of six or more years (even though the State of New Mexico only requires law enforcement to maintain unreported sexual assault kits for a period of three years), or the case has been proven to be “Unfounded.” In successful cases where a verdict of guilty has been rendered, evidence shall be retained until such time the defendant has exhausted their appeal process, and only with the written approval of the District Attorney’s Office.

In cases of sexual assault, the supplemental report detailing the reasoning for destruction should be especially detailed as to why the destruction is authorized. In cases of 1st degree felony where there is no statute of limitations, sexual assault kits and evidence will be held indefinitely. In these specific incidents, after six years has passed any evidence not directly related to prosecution or of direct evidentiary value to a potential trial may be destroyed with the written authorization of the District Attorney’s Office.

High Risk Item Destruction:

Property classified as High Risk, i.e. Narcotics and weapons, shall be destroyed or converted for department use only after a court order is obtained. A minimum of one officer from the Professional Standards Division and a second department employee, determined by the Professional Standards Lieutenant, shall monitor the collection of items identified for destruction.

PROCESS:

Drugs: Items identified from the Exhibit list, prior to petitioning for a court order, are located, verified and placed into an approved storage bin. When the storage bin is filled to capacity, the bin shall be sealed with evidence tape and all parties present shall write their initials and the date across the tape to prevent any opening or tampering. At any point during the process that an unsealed, partially-filled bin is to be left unattended (such as overnight), or, when any one or more of the assigned personnel involved in the destruction process is called away or is otherwise unavailable to witness the process, the bin and its contents are placed in a secure and approved storage area, inside the evidence room, while still in the presence of all persons involved. The secure storage area is padlocked by the Professional Standards Division representative until such time as all parties are again present and the process is resumed.

The sealed bin(s) shall remain in the approved secure storage area, inside the evidence room, which is padlocked by the Professional Standards Division Representative until such time bin(s) are transported for destruction, pursuant to a signed court order. In all cases, the process shall be witnessed, and documented by body-worn cameras by the Evidence Custodian or Technician and a minimum of one, armed, Commissioned Police Officer.

The Professional Standards Division shall ensure that the physical destruction process is completed and documented. As it pertains to the destruction of drugs through the incineration process, the minimum number of employees required as witnesses shall be strictly adhered to, with the total number of employees allowed in facilitating and/or witnessing the destruction restricted to a maximum five individuals.

Drug paraphernalia: Shall be disposed of through the landfill method identified in number ten (10) of the General Property Section above.

Prior to the final destruction of narcotic or drug evidence which had been previously released for laboratory verification, representatives from the Professional Standards Division and Region II Narcotics Taskforce shall conduct a final content verification test of a minimum of five percent of the number of items awaiting destruction. The test will be performed by Department approved narcotics identification kits.

This test shall also verify that the final weight of the evidence is consistent with the original evidence's weight, less a reasonable amount removed during the laboratory testing process or through the normal desiccation process of plant materials or substances containing liquids.

Weapons: Weapons identified for final disposal shall be inspected by the Department's armorer and command staff level officer for consideration for possible conversion to department use. A separate court order for conversion shall be obtained for weapons that can be converted. A court order for destruction shall be obtained on the remaining weapons.

Converted weapons shall be removed by a member of the Professional Standards Division upon receipt of the court order and immediately entered into the inventory control system. They shall then be secured in the armory.

For weapons to be destroyed, the Professional Standards Lieutenant, pursuant to court order, will schedule Department personnel with armorer experience to facilitate the destruction of the identified weapons. On the scheduled date, the weapons to be destroyed shall be gathered by evidence personnel and placed in the armory. The armorer will dismantle the weapons. The remnants are destroyed with a cutting torch at the Municipal Operations Center, ensuring that the critical functioning components of the firearms being destroyed are made permanently inoperable and unrepairable, or may be destroyed by a certified Firearms Pulverizer. The remnants can be sold as scrap metal, or disposed of at a landfill. The Professional Standards Division shall ensure that the physical destruction process is completed and documented.

Currency: Domestic currency is not destroyed. If ownership is abandoned or never established, the currency is not removed from its evidence container, but is placed into the "**general fund**" box located inside the currency vault. The currency contained in the general fund box shall be accounted for and subsequently deposited at least two times per calendar year. This process shall be jointly conducted by an officer of the Professional Standards Division and at least one Evidence Technician. The Civilian Operations Supervisor

transfers the money to the City cashier. A deposit slip is returned to the Evidence Technician and placed in a destruction file.

Counterfeit currency is not destroyed, but forwarded by certified mail to the US Secret Service after a police officer has reviewed and returned the currency and attached a printed case supplement to the evidence package.

Foreign Currency: Foreign coins are generally not accepted at any of the available financial institutions. Paper forms of currency may or may not be accepted at these same institutions. The Civilian Operations Supervisor shall make a reasonable attempt to convert this money into American Dollars for deposit into the City of Farmington's general revenue account. If the conversion of this currency cannot be completed, the foreign paper currency and coins can be submitted for public auction to collectors or other interested parties, or destroyed in accordance with the landfill procedure noted above.

Jewelry: Jewelry and other items within the high risk area that can be possessed legally shall be sold at auction.

Exceptions that do not fall into any of the specified categories may be disposed of or sold at auction with the approval of the Civilian Operations Supervisor. The Civilian Operations Supervisor should document these exceptions.